Claim 5 of the '275 patent is nearly the same as claim 2, except that, in claim 5, the information is sent over an optical communication path:

> 5. A distribution method responsive to requests from a user identifying items in a transmission system containing information to be sent from the transmission system to receiving systems at **[2] remote locations**, the method comprising the steps of:
>
> **[3] storing, in the transmission system, information from items in a compressed data form, the information including an identification code and being placed into ordered data blocks;**
>
> **[45] sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted to a [44] reception system associated with a receiving system at one of the remote locations selected by the user**;
>
> **[47] sending at least a portion of the stored information from the transmission system to the reception system over an optical fiber communication path;**
>
> receiving the sent information by the reception system;
>
> storing a complete copy of the received information in the reception system; and
>
> **[48] playing back the stored copy of the information sent over a cable communication path from the reception system to the receiving system at the selected remote location at a time requested by the user.**

44. "Reception System Associated With a Receiving System at One of the Remote Locations Selected by the User" ('275 Patent – 2, 5)

Acacia	The "remote location selected by the user" is a site or position distant in space from the transmission system that is selected by the user from among two or more sites or positions distant in space from the transmission system. There is a receiving system at the selected remote location. The receiving system is an assembly of elements, hardware and software, capable of functioning together to receive information. There is a reception system associated with the receiving system. The reception system is an assembly of elements, hardware and software, capable of functioning together to receive information, store information, and play back information.
Rounds 1 and 2 Defendants	Indefinite.
Round 3	See construction of "remote locations selected by the user" elsewhere in this

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Defendants	chart.

This phrase appears in claims 2 and 5 of the ‘275 patent and appears as part of the claim step: “sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted to *a reception system associated with a receiving system at one of the remote locations selected by the user*.”

This phrase includes the phrase “one of the remote locations selected by the user.” This phrase is also used in claims 19 and 47 of the ‘992 patent and Acacia has discussed this phrase and its proposed construction in Section No. 8 above. Acacia contends that this phrase should be construed to mean “a site or position distant in space from the transmission system that is selected by the user from among two or more sites or positions distant in space from the transmission system.” The phrase “one of the remote locations selected by the user” is used in the same manner in claims 19 and 47 of the ‘992 patent and in claims 2 and 5 of the ‘275 patent, and therefore it should be construed the same in each claim. *See, Wilson Sporting Goods*, __ F.3d at ___, 2006 U.S. App. LEXIS 7169, at *13.

This phrase also includes the term “receiving system.” The term “receiving system” is also used in claims 19 and 47 of the ‘992 patent, however, it is not used in the same manner in the ‘992 patent claims as it is used in the ‘275 patent claims. In the ‘992 patent claims, the information is received from the transmission system by the receiving system, where a complete copy of the information is stored. Thereafter, the receiving system is used to play back the stored copy of the information at a time requested by the user. In the ‘275 patent claims, however, the information is received from the transmission system by the *reception* system, where a complete copy of the information is stored. The stored copy of the information is played back from the reception system to the receiving system at the selected remote location at a time requested by the user. Thus, because the term “receiving system” is used differently in the ‘992 patent claims than it is in the ‘275 patent claims, the term should not have the same construction in both sets of patent claims. *See, Wilson Sporting Goods,* __ F.3d at ___, 2006 U.S. App. LEXIS 7169, at *13.

In Section No. 4, above, Acacia demonstrated that the term “receiving system” in claims 19 and 47 of the ’992 patent should be construed as “an assembly of elements, hardware and software, capable of functioning together to receive information, store information, and be used to play back information.” Claims 2 and 5 do not require that the receiving system store information or be used to play back information. Therefore the construction of “receiving system” in claims 2 and 5 of the ‘275 patent should not include the “storage” or “play back” limitations. Acacia therefore contends that “receiving system” in claims 2 and 5 of the ‘275 patent means “an assembly of elements, hardware and software, capable of functioning together to receive information.”

This claim phrase also includes a “reception system associated with a receiving system.” In Markman I, the Court construed the “reception system” of the claims of the ‘702 patent as: “an assembly of elements, hardware and software, capable of functioning together to receive items of information.” (Markman I, at 28:21-23). This construction is instructive but not totally applicable to the “receiving system” of claims 19 and 47 of the ‘992 patent and in claims 2 and 5 of the ‘275 patent, because claims 2 and 5 state that the receiving system is used to not only receive information – it also is used to store information and play back information. Thus, the term “reception system” should be construed to be “an assembly of elements, hardware and software, capable of functioning together to receive information, store information, and play back information.”

The specification describes a reception system associated with a receiving system at one of the remote locations selected by the user in the context of cable television systems wherein the information is stored at the reception system, but the patent does not limit the reception system or receiving systems to cable television systems. Other means of transmission, including computer networks, are disclosed:

> FIG. 1f shows a high level block diagram of the transmission and receiving system of the present invention including transmission system 100 distributing via several channels to reception systems 200 and 200´. Reception system 200 is preferably non-buffering. In such a system, users are directly connected to transmission system 100, as in reception system 200 in FIG. 1e.
>
> Reception system 200´ shown in FIG. 1fis a cable television system, as shown in reception systems 200´ of FIG. 1e. In FIG. 1f, the reception system 200´ is preferably buffering, which means that users may receive

> requested material at a delayed time. The material is buffered in intermediate storage device 200c in reception system 200´.
>
> In the configuration of FIG. 1f, decompression of the requested material may preferably occur at the head end of a cable television reception system 200´. Thus, distribution may be provided to users via standard television encoding methods downstream of the head end of the cable distribution system. This method is preferred for users who only have cable television decoders and standard television receivers.

(275 patent, 4:32-53).

> With respect to the transmission and receiving systems set forth in FIGS. 1a-1g, the requested material may be fully compressed and encoded, partly decompressed at some stage in transmission system 100, or fully decompressed prior to transmission. The reception systems 200 may either buffer the requested material for later viewing, or decompress in real time the requested material as it is distributed by transmission system 100. Alternatively, the reception systems 200 of the present invention may perform a combination of buffering and non-buffering by buffering some of the requested material and decompressing the remainder of the requested material for immediate viewing as it is distributed by transmission system 100.

(‘275 patent, 4:66-5:11).

> In non-direct connection reception systems such as shown in reception system 200´ of FIG. 1f, intermediate storage device 200c may preferably include, for example, sixteen hours of random access internal audio and video storage. A reception system with such storage is capable of storing several requested items for future playback. The user could then view and/or record a copy of the decompressed requested material in real time, or compressed in non-real time, at a time of their choosing. Accordingly, the user would not have to make a trip to the store to purchase or rent the requested material.

(‘275 patent, 5:25-36).

> A preferred embodiment of the present invention also includes means by which to access users via common access lines. These may include standard telephone, ISDN or B-ISDN, microwave, DBS, cable television systems, *MAN*, high speed modems, or communication couplers. *Metropolitan Area Networks (MANs) which are common carrier or private communication channels are designed to link sites in a region. MANs are described by Morreale and Campbell in “Metropolitan-area networks” (IEEE Spectrum, May 1990 pp. 40-42).* The communication lines are used to transmit the compressed data at rates up to, typically, 10 Mb/sec.

(‘275 patent, 16:9-20; emphasis added).

The Rounds 1 and 2 Defendants contend that this phrase is indefinite, but they have not articulated their reasons for this contention. The Round 3 Defendants have not offered a construction for this phrase, however, they do address some of these terms in their construction of the "sending a request" phrase, immediately below in Section No. 45. Acacia will address the Round 3 Defendants' proposed construction below in Section No. 45.

45. "Sending a Request, by the User to the Transmission System, for at Least a Part of the Stored Information to be Transmitted to a Reception System Associated With a Receiving System" ('275 Patent, Claims 2, 5)

Acacia	The phrase "sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted to a reception system associated with a receiving system" means that the user sends a request to the transmission system. The request seeks the transmission of a part of the information stored in the transmission system to a reception system associated with a receiving system.
Rounds 1 and 2 Defendants	Indefinite.
Round 3 Defendants	When the user requests "at least a part of the stored information," the user chooses the premises, from among a plurality of (two or more) premises, to which the information will be sent. Each of the premises from which the user chooses has a receiving system to which the information can be transmitted. The premises chosen by the user must be different from the premises at which the user makes the request. The request by the user to the transmission system "for at least a part of the stored information" must include an identification of the specific remote location selected by the user. The "reception system" must be located at the head end of a cable television system.

The phrase "sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted to a reception system associated with a receiving system at one of the remote locations selected by the user" appears in claims 2 and 5 of the '275 patent. Acacia addressed the portion of this phrase "a reception system associated with a receiving system at one of the remote locations selected by the user" in Section No. 44, above. Acacia will address the other portion of this phrase "sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted" in this Section.

The construction of this part of the phrase involves little more than the application of the widely accepted meaning of commonly understood terms – the user sends a request to the transmission system that seeks the transmission of a part of the information stored in the transmission system to a reception system associated with a receiving system. *See, Phillips*, 415 F.3d at 1314.

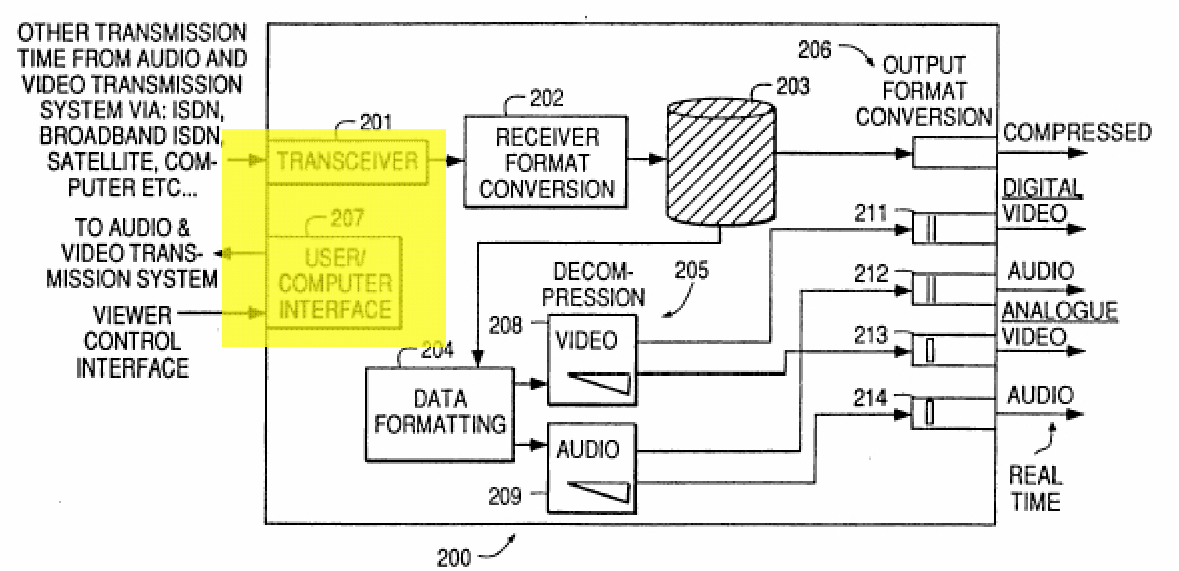
The Round 3 Defendants contend that the phrase "sending a request, by the user to the transmission system, for at least a part of the stored information to be transmitted to a reception system associated with a receiving system at one of the remote locations selected by the user" includes a number of limitations that are not present in the claims and are not required by the patent specification.

The Round 3 Defendants contend that term "location" means "premise." As discussed above in Section No. 2, the Court has already held that the ordinary meaning of "location" is a "site or position" and the Court has rejected the Internet defendants' contention that "location" means "premise." (Markman I, at 30, n. 22).

The Round 3 Defendants contend that the selected remote location is selected from "a plurality (two or more) of choices of premises different from the premises where the request is made." In other words, the selected remote location cannot be the location from which the user makes the request. This limitation is not present in the claim language itself – nothing in the claim language "selected remote location" requires that the selected remote location cannot be the same location as the location where the user is located when the user makes the request. This limitation is also not present in the specification. The specification discloses that the user may make a request using a user terminal, which may be an interface built directly into the reception system 200, which is shown in Figure 6 as also being the reception system which receives the requested information:

> *Access by a user terminal interface method provides the user with access from various terminals including personal computers, and specialized interfaces built into the reception system 200 for the user*. Such access allows a user to do a search of available programs from a computer screen. This process involves the steps 4000 shown in FIG. 4.

('275 patent, 15:1-7; emphasis added).


OTHER TRANSMISSION TIME FROM AUDIO AND VIDEO TRANSMISSION SYSTEM VIA: ISDN, BROADBAND ISDN, SATELLITE, COMPUTER ETC...
TO AUDIO & VIDEO TRANSMISSION SYSTEM
VIEWER CONTROL INTERFACE
201
TRANSCEIVER
207
USER/ COMPUTER INTERFACE
202
RECEIVER FORMAT CONVERSION
203
206
OUTPUT FORMAT CONVERSION
COMPRESSED
DIGITAL VIDEO
AUDIO
ANALOGUE VIDEO
AUDIO
REAL TIME
211
212
213
214
DECOM-PRESSION
205
208
VIDEO
204
DATA FORMATTING
AUDIO
209
200
FIG. 6

Further, the patent specification never states that the user must request that the information be sent to a different location than the location where the user is located when they make the request. In each case, the specification merely states that the user selects the location or may make a request from a location different than the location of the reception system; there is nothing in the patent that prohibits the user from selecting the location from which the user makes the request:

> In direct connection configurations, such as reception systems 200 shown in FIGS. 1e and 1f, the user preferably selects the reception system 200 to which the requested material is sent, and optionally selects the time playback of the requested material as desired. Accordingly, the user may remotely access the transmission system 100 from a location different than the location of reception system 200 where the material will be sent and/or played back. Thus, for example, a user may preferably call transmission system 100 from work and have a movie sent to their house to be played back after dinner or at any later time of their choosing.

('275 patent, 5:13-24; emphasis added).

> The user then indicates whether the confirmation performed in step 3070 is correct (step 3080). If the confirmation performed in step 3070 is correct, the user so indicates and then inputs a desired delivery time and delivery location (step 3090).

('275 patent, 14:34-38; emphasis added).

> FIG. 4 is a flowchart of a preferred method of user request via a user interface of the present invention. In the preferred method of FIG. 4, the user first logs onto the user terminal interface (step 4010). After the user logs on, the user may preferably select a desired item by searching the database of available titles in the library system control computer 1123 or any remote order processing and item database 300 (step 4020). The search

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> may preferably be performed using the database containing the program notes, described above with respect to FIGS. 2a and 2b. It is possible to process orders and operate a database of available titles at multiple locations remote of the source material library 111. Users and order processing operators may preferably access such remote systems and may place transmission requests from these systems. Orders placed on these systems will be processed and distributed to the appropriate libraries. After the desired item is found, *the user selects the item for transmission at a specific time and location* (step 4030).

('275 patent, 15:8-27).

The Round 3 Defendants further contend that the request to the user *must* include an identification of the specific remote location selected by the user. The claim does not state that the request includes an identification of the specific remote location selected by the user, and therefore the Round 3 Defendants are attempting to import limitations into the claim that are not present in the claim. Further, the specification does not state that the request must include an identification of the selected remote location – the specification states that the request may include the address of the user (not the selected remote location) or an identification of the receiver specified by the user:

> The compressed and encoded audio and/or video information is sent over standard telephone, cable or satellite broadcast channels *to a receiver specified by a subscriber of the service*, preferably in less than real time, for later playback and optional recording on standard audio and/or video tape.

('275 patent, Abstract; emphasis added).

> The user then selects the item or items that he or she desires. Upon selection and confirmation, by the user, a request for transmission of a particular item or items is sent to the distribution manager program of the system control computer 1123. *The request contains the address of the user, the address of the item, and optionally includes specific frame numbers, and a desired viewing time of the item.*

('275 patent, 12:25-32; emphasis added).

The Round 3 Defendants further contend that the reception system must be located at the head end of a cable television system. Claims 2 and 5 of the '275 patent do not state that the reception system is at the head end of a cable television system. Claim 2 does not even mention the term "cable." Claim 5 states that the information is played back over a cable communication path, however, it does not state that the reception system is located at the head end of a cable television system. Further, the specification describes, as examples, cable television systems, however, it does not limit the invention to cable television systems. Indeed, the specification states that it is to communicate using "any available communication channel," which includes cable television, broadband, and computer networks:

> The transmission system 100 of the present invention preferably further includes transmitter means 122, coupled to the compressed data library 118, for sending at least a portion of a specific file to at least one remote location. *The transmission and receiving system of the present invention preferably operates with any available communication channels*. Each channel type is accessed through the use of a communications adaptor board or processor connecting the data processed in the transmission format converter 119 to the transmission channel.
>
> *A preferred embodiment of the present invention also includes means by which to access users via common access lines. These may include standard telephone, ISDN or B-ISDN, microwave, DBS, cable television systems, MAN, high speed modems, or communication couplers. Metropolitan Area Networks (MANs) which are common carrier or private communication channels are designed to link sites in a region.* MANs are described by Morreale and Campbell in "Metropolitan-area networks" (IEEE Spectrum, May 1990 pp. 40-42). The communication lines are used to transmit the compressed data at rates up to, typically, 10 Mb/sec.

('275 patent, 15:66-16:20; emphasis added).

> In a preferred embodiment of the present invention, many forms of communication channels may be employed. Distribution of information is by common carrier communication channels whenever possible. These channels include common telephone service, ISDN and Broadband ISDN, DBS, cable television systems, microwave, and MAN.

('275 patent, 16:67-17:5; emphasis added).

The Rounds 1 and 2 Defendants contend that this phrase is indefinite, but they have not articulated the reasons for their contention.

46. "Playing Back the Stored Copy of the Information from the Reception System to the Receiving System at the Selected Location at a Time Requested by the User" ('275 Patent, Claim 2)

Acacia	The phrase "playing back the stored copy of the information from the reception system to the receiving system at the selected location at a time requested by the user" means providing signals to the receiving system in a format such that the signals may be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded at a time, after the transmitted information has been received and stored at the reception system, when the user requests to view the information.
Rounds 1 and 2 Defendants	Indefinite.
Round 3 Defendants	The reception system must play back the stored copy directly onto the receiving system.

	The "receiving system" must be a device on which playback can occur - a device which itself can display video content or play audio content directly to a user, such as a television or a radio. (The "receiving system" cannot be a set top box.) "Playback" and "playing back" refer to the process of sending uncompressed signals to a device, such as an audio amplifier and/or television, on which video information can be displayed and/or audio information heard. These terms are construed similarly in other claims of the '992 and '275 patents. See also the construction of "time requested by the user" elsewhere in this chart.

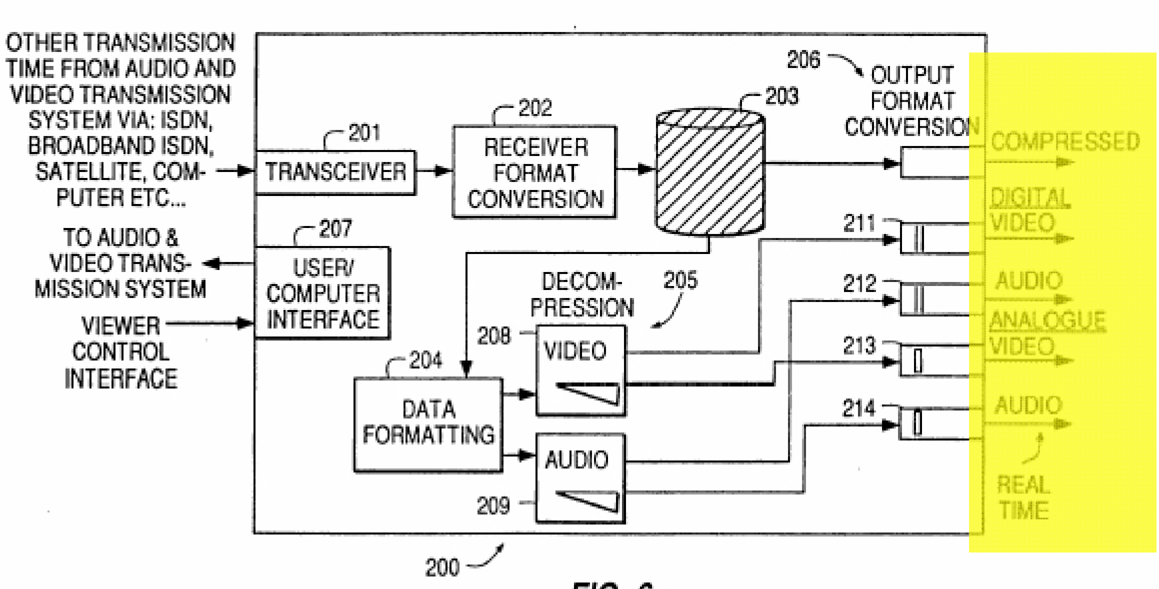
The phrase "playing back the stored copy of the information from the reception system to the receiving system at the selected location at a time requested by the user" appears in claim 2 of the '275 patent.

According to this phrase, the reception system (in which the complete copy of the information has been stored) plays back the information to the receiving system. Acacia contends that the phrase "playing back" means "the process of providing signals comprising video and/or audio information, wherein the signals can be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded." Thus, the portion of this phrase which states "playing back the stored copy of the information from the reception system to the receiving system" means that the reception system provides signals comprising video and/or audio information. These signals can be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded. These signals are received by the receiving system. As discussed above, the "receiving system" is an assembly of elements, hardware and software, capable of functioning together to receive information. Thus, the receiving system receives the signals comprising video and/or audio information which can be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded.

The Round 3 Defendants contend that "playing back" means "the process of sending signals to a system, such as an audio amplifier and/or television, on which video information can be displayed and/or audio information heard." (See, Section No. 4, above). Based on this erroneous definition of "playing back," the Round 3 Defendants contend that the "receiving system" is a device which itself can display video content or play audio content. This is inconsistent with the specification, which shows the receiving system in Figure 6 as having storage and as outputting playback signals (it is not depicted as a device for displaying video or playing audio) and which states that the play back signal is either sent to a playback device (television or audio amplifier) or is sent to an audio/video recorder for recording:

> When playback is requested, the compressed formatted data blocks are sent to data formatter 204. Data formatter 204 processes the compressed formatted data blocks and distinguishes audio information from video information.
>
> The separated audio and video information are respectively decompressed by audio decompressor 209 and video decompressor 208. The decompressed video data is then sent simultaneously to converter 206 including digital video output converter 211 and analog video output converter 213. The decompressed audio data is sent simultaneously to digital audio output converter 212 and analog audio output converter 214. The outputs from converters 211-214 are produced in real time.
>
> The real time output signals are output to a playback system such as a TV or audio amplifier. They may also be sent to an audio/video recorder of the user. By using the reception system 200 of the present invention, the user may utilize the stop, pause, and multiple viewing functions of the receiving device. Moreover, in a preferred embodiment of the present invention, the output format converters may be connected to a recorder which enables the user to record the requested item for future multiple playbacks.

('275 patent, 18:27-50; emphasis added).



OTHER TRANSMISSION TIME FROM AUDIO AND VIDEO TRANSMISSION SYSTEM VIA: ISDN, BROADBAND ISDN, SATELLITE, COMPUTER ETC...
TO AUDIO & VIDEO TRANSMISSION SYSTEM
VIEWER CONTROL INTERFACE
201
TRANSCEIVER
202
RECEIVER FORMAT CONVERSION
203
206
OUTPUT FORMAT CONVERSION
207
USER/ COMPUTER INTERFACE
DECOMPRESSION
205
208
VIDEO
204
DATA FORMATTING
AUDIO
209
211
212
213
214
COMPRESSED
DIGITAL VIDEO
AUDIO
ANALOGUE VIDEO
AUDIO
REAL TIME
200

FIG. 6

The Rounds 1 and 2 Defendants contend that this phrase is indefinite, but they have not articulated the reasons for their contention.

47. "Sending at Least a Portion of the Stored Information to the Reception System" ('275 Patent, Claim 2)

Acacia	The phrase "sending at least a portion of the stored information to the reception system" means the act of sending (i.e., transmitting) a portion of the stored information or all of the stored information to the reception system.
Rounds 1 and 2 Defendants	Indefinite.
Round 3 Defendants	At least a portion of the stored information that was stored in the previous step of "storing, in the transmission system, information from items in a compressed data form..." is taken from the place where the information was stored in this previous step of storing and sent to the reception system.

The phrase "sending at least a portion of the stored information to the reception system" appears in claim 2 of the '275 patent.

Acacia contends that this phrase means the act of sending (i.e., transmitting) a portion of the stored information or all of the stored information to the reception system. This is consistent with the language in the claim and with the patent specification which describes the act of sending information:

> The transmission system 100 of the present invention preferably further includes transmitter means 122, coupled to the compressed data library 118, for sending at least a portion of a specific file to at least one remote location. The transmission and receiving system of the present invention preferably operates with any available communication channels. Each channel type is accessed through the use of a communications adaptor board or processor connecting the data processed in the transmission format converter 119 to the transmission channel.

('275 patent, 15:66-16:8).

> After the information is stored in a compressed data library 118, the transmission and receiving system preferably waits to receive a transmission request (step 415). Upon receiving a transmission request, from transmission system 100, the compressed formatted data is preferably converted for output to a reception system 200, selected by the user. *The information is preferably transmitted over an existing communication channel to a reception system 200, and is received by that system (step 417).* When the information is received in step 417, it is preferably formatted for the particular type of reception system 200 to which the information is sent.

('275 patent, 19:23-34).

The Round 3 Defendants contend that this phrase requires that the portion of the stored information must be taken from the place where the information was stored. This construction is improper, because it adds limitations that are not present in the claim – that there is a place where the information was stored and that the information is taken from this place. These limitations are not stated in the claim and to require them in the construction of this phrase would improperly import limitations from the specification into the claim.

The Rounds 1 and 2 Defendants contend that this phrase is indefinite, but they have not articulated their bases for this position.

48. "Playing Back the Stored Copy of the Information Sent Over a Cable Communication Path from the Reception System to the Receiving System at the Selected Location at a Time Requested by the User" ('275 Patent, Claim 5)

Acacia	The phrase "playing back the stored copy of the information sent over a cable communication path from the reception system to the receiving system at the selected location at a time requested by the user" means sending signals over a cable communication path to the receiving system in a format such that the signals may be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded at a time, after the transmitted information has been received and stored at the reception system, when the user requests to view the information.
Rounds 1 and 2 Defendants	Indefinite.
Round 3 Defendants	See construction of "playing back the stored copy of the information from the reception system to the receiving system at the selected remote location at a time requested by the user" elsewhere in this chart. "A cable communication path" does not require construction.

The phrase "playing back the stored copy of the information sent over a cable communication path from the reception system to the receiving system at the selected location at a time requested by the user" appears in claim 5 of the '275 patent. This phrase is similar to the phrase of claim 2, which is discussed above in Section No. 46, except that, in this phrase from claim 5, when played back, the information is sent over a cable communication path. Acacia construes this phrase, consistent with the statements and contentions set forth in Section No. 46, as "sending signals over a cable communication path to the receiving system in a format such that the signals may be displayed and/or heard on a device, such as an audio amplifier and/or television, or recorded at a time, after the transmitted information has been received and stored at the reception system, when the user requests to view the information.

The Round 3 Defendants make the same contentions as they have with respect to the similar phrase in claim 2. For the reasons discussed in Section No. 46, the Round 3 Defendants' contentions are without merit.

The Rounds 1 and 2 Defendants contend that this phrase is indefinite, but they have not articulated their bases for this position.

49. The Order of the Steps of Claims 2 and 5 of the '275 Patent ('275 Patent, Claims 2 and 5)

Acacia	The steps of claims 2 and 5 of the '275 patent must be performed in the following order: 1. "storing, in the transmission system, information from items in a compressed data form, the information including an identification code and being placed into ordered data blocks"; 2. "sending a request . . ."; 3. "sending at least a portion of the stored information. . ."; 4. "receiving the sent information. . ."; 5. "storing a complete copy. . ."; and 6. "playing back the stored copy. . .".
Rounds 1 and 2 Defendants	The steps of claims 2 and 5 of the '275 patent must be performed in the following order: 1. storing information; 2. sending a request; 3. sending at least a portion of the stored information; 4. receiving the sent information; 5. storing a complete copy; and 6. playing back the stored copy. In addition, within the first step of storing information, the act of placing information including an identification code into ordered data blocks must occur prior to placing the information into a compressed data form.

Round 3 Defendants	The steps of claims 2 and 5 of the ‘275 patent must be performed in the following order in which these steps are recited in the claims, namely: 1. “storing, in the transmission system, information from items in a compressed data form, the information including an identification code and being placed into ordered data blocks”; 2. “sending a request, by the user to the transmission system . . .”; 3. “sending at least a portion of the stored information . . .”; 4. “receiving the sent information . . .”; 5. “storing a complete copy of the received information . . .”; and 6. “playing back the stored copy . . .” In addition, within the first step of storing information, the act of placing information including an identification code into ordered data blocks must occur prior to placing the information into a compressed data form.

The parties dispute the order of the steps of claims 2 and 5 of the ‘992 patent with respect to the first step of claims 2 and 5. Acacia contends that the first step of claims 2 and 5: “storing, in the transmission system, information from items in a compressed data form, the information including an identification code and being placed into ordered data blocks” comprises only the single step of “storing” information which was previously placed into ordered data blocks and which was previously compressed (in that order). (See, Section No. 3, above).

Defendants, however, contend that this first step contains the additional acts of placing the information into ordered data blocks and of compressing the ordered data blocks. As discussed above in Section No. 3, there is no step (or act) of placing into ordered data blocks or compressing in this phrase. The only step required is that of “storing.”

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XX. CONCLUSION

For the foregoing reasons, Acacia respectfully requests that the Court adopt Acacia's proposed constructions for the terms of claims 19-24, 41-49, and 51-53 of the '992 patent and claims 2 and 5 of the '275 patent.

DATED: April 17, 2006

HENNIGAN BENNETT & DORMAN LLP

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ACACIA MEDIA TECHNOLOGIES CORPORATION

PROOF OF SERVICE-UNITED STATES DISTRICT COURT

STATE OF CALIFORNIA,)
) SS.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 865 South Figueroa Street, Suite 2900, Los Angeles, California 90017.

On **April 17, 2006**, I served a copy of the within document(s) described as **PLAINTIFF ACACIA MEDIA TECHNOLOGIES CORPORATION'S LEGAL MEMORANDUM RE THE DEFINITIONS OF THE CLAIM TERMS FROM THE '992 AND '275 PATENTS** on the interested parties in this action by transmitting via United States District Court for the Northern District of California Electronic Case Filing Program the document(s) listed above by uploading the electronic files for each of the above listed document(s) on this date, addressed as set forth on the attached Service List.

The above-described document was also transmitted to the parties indicated below, by Federal Express only.

Chambers of the Honorable James Ware
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Executed on **April 17, 2006**, at Los Angeles, California.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

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